

**Remarks**

This Amendment is in response to the Final Office Action dated **January 12, 2009**.

The non-final office action rejected claims 1-2, 4-5, 10, 15-18 and 21 as anticipated by B rand (US App. 2003/0183226). Claims 3, 78-8 and 11 were rejected as obvious over Brand in view of Curry (US 6814293). Claims 6 and 9 were rejected as obvious over Brand in view of Curry and further in view of Jansen (US 6778917).

In response, applicants have amended claim 1 to include the limitations of claim 6, as well as the following limitation the specification (page 4, lines 4 to 5):

wherein data of an initial calibration comprising correctness and precision are stored into the transponder as production-related specific data.

Claims 15-18 were cancelled. New independent claims 22-24 were added. And new dependent claims 25-39 were added.

Claim 22 is claim 1 and the limitations of claim 9 and the following limitation from the specification (page 4, lines 18 to 19):

wherein calibration data comprising correctness and precision of the user are stored into the transponder as application-related specific data.

Claim 23 is claim 1 and the limitations of claim 11, and the following limitation:

wherein maintenance or repair data are stored into the transponder as application-related specific data.

Claim 24 is claim 1 and the following limitation from page 6, line 15 of the specification:

wherein the date of next calibration is stored into the transponder as application-related specific data.

The amendments to the claims are believed to overcome the anticipation rejection, as well as the several obviousness rejections.

According to the official action, the combination of Brand (US Patent Application No. 2003/0183226) in view of Curry (US Patent No. 6 814 293) discloses the method for storing production-related specific data ([0016-0017]; [0030], Brand). However, Brand in view of Curry are silent with respect to the data being initial calibration. On the other hand, according to the Examiner, Jansen (US Patent No. 6,778,917) discloses the data being initial calibration (column 4, lines 37 to 55, Jansen). The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Brand and Curry system. The Examiner asserts that a person of ordinary skill in the art would have been motivated to combine, as suggested by Jansen at columns 2 to 3, line 60 to 67 and 1-2, respectively, in order to alleviate the tedious and erroneous of inputting the calibration data via a keyboard.

Further the Examiner argues, that the combination of Brand and Curry, further in view of Jansen, discloses the method wherein calibration data of the user is stored (column 4, lines 37 to 55 and column 5, lines 15 to 22, Jansen) into the transponder as application-related specific data ([0026]; [0030]; [0096], Brand).

The above arguments are based on an incorrect understanding of the calibration data features in the pending application and of the parameters of the metering device according to Jansen as well as the object to this prior invention.

In the pending application, calibration data results from calibration of the proportioning device which must be carried according to the DIN or ISO standards several times a year. Calibration involves testing of the correctness and precision of the proportioning device and adjustment of the proportioning device. According to the DIN ISO standard, the results of the calibration have to be recorded. Especially, correctness and precision must be recorded as dates of calibration. Calibration must be carried out by the manufacturer of the proportioning device as well as by the user thereof and calibration data has to be recorded in each case.

Up to the time of the invention, this quality assurance data was recorded by the manufacturer and by the applicant in accompanying documents. In part, the data was affixed to the proportioning device on written labels. The disadvantage in former handling is that an access to the data and updating in supplementing thereof are intricate and the data needed will not always be readily available.

The invention allows the storage of data of initial calibration generated by the manufacturer as well as a calibration data generated by the user in the proportioning device. This ensures a manufacture and application of the proportioning device without accompanying documents, a simple way of updating and completing the data by means of a writing device and an easy and complete availability of data by means of a reading device. Consequently the manufacturing process as well as the handling and quality control of the proportioning device by the user is simplified.

Jansen refers to calibration according to several standards in column 2, lines 39 to 64. According to Jansen, all measuring and reference data may be protocolled according to GLP-DIN (column 2, lines 58 to 59). This means, that the data is conventionally recorded in accompanying documents. Column 2, line 60 to 64 does not address to the handling of

calibration data but to the handling of metering data during calibration. Metering data is the dosage volumes which are inputted into the electronic hand metering pipette for testing correctness and precision of the dosage. Jansen does not address to the handling and correctness and precision data resulting from this test.

According to the above text passage, inputting of the metering data (i.e. dosage volumes) is tedious and may lead to errors. So it is especially the object of Jansen to provide a method for operating an electronic metering system with improved operation procedures column 2, line 66 to column 3, line 2).

This object *is inter alia* achieved by providing the electronic metering system with a data interface for connecting the metering device with an external computer by which the hand metering device can be remotely controlled (independent claims 1 and 5). Remote control of the hand metering device particular favours the calibration in that the respective metering data (i.e. dosage volumes) by way of the computer is transmitted to the hand metering device and where appropriate even its operation is completely controlled by way of the computer. Furthermore, the external computer may protocol the respective metering data (column 4, lines 22 to 36).

In column 4, lines 37 to 55, Jansen teaches to store operating parameters of e.g. dosage volumes in the pipette. This text passage also refers to the GLP parameter documentation and a simplified calibration with PC software. According to the previous text passage (column 4, lines 22 to 36), this means recordal of the metering data inputted during calibration into the pipette within and external computer. Recordal of correctness and precision is not mentioned at all.

So Jansen teaches to control dosage tests during calibration by external computer thereby avoiding the tedious inputting of metering data via the small keyboard of the electronic

hand metering pipette. Jansen does not turn to improving recordal of calibration data such as correctness and precision resulting from the test et all. Especially, there is no indication in Jansen to store such calibration data obtained by the manufacturer and the user in a pipette.

Also Jansen does not disclose storing the date of next calibration or the date of calibration, at which the calibration data have been obtained. The claimed method makes it easy to have available these important data of quality assurance without being recorded in accompanying documents or written on labels affixed to the proportioning device (page 1, lines 22 to 24).

We cannot agree that the additional features of original filed claim 11, now incorporated into claim 23, is disclosed by Curry as cited in the combination. Curry only discloses the maintenance overhead of scanners (column 20, lines 29 to 21, in particular lines 36 to 38). There is no discussion about the maintenance of the base units, the proportioning devices. No storage of any maintenance data is mentioned by Curry. Therefore original claim 11 is not obvious by Brand in view of Curry.

### **Conclusion**

In light of the arguments presented above, and the amendments made in the present application, Applicant asserts that the application is in condition for allowance. Favorable consideration and prompt action to that effect are earnestly requested.

Should the Examiner believe that anything further is required to place the application in better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative at the number listed below.

Respectfully submitted,

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